
HOUSE BILL No. 1173

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5-7; IC 28-8-5-18.

Synopsis: Small loans and check cashing transactions. Specifies that the limits on the finance charges that may be imposed in connection with a small loan apply to the loan's principal. Provides that the pamphlet required to be provided by a small loan lender to a borrower must, after December 31, 2009, contain information on other loans and financial products that may be available to the borrower. Requires the department of financial institutions (department) to adopt rules to: (1) establish minimum standards for the content and design of a pamphlet that is produced by a lender and submitted to the department for approval; and (2) prepare a sample pamphlet that may be adopted or used by a lender to comply with the required disclosures to borrowers. Requires a licensed casher of checks to submit an annual report to the department that includes certain information concerning the check cashing transactions conducted by the licensee at the licensee's Indiana locations during the previous calendar year.

Effective: Upon passage; July 1, 2009.

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January 12, 2009, read first time and referred to Committee on Financial Institutions.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1173

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-4.5-7-201, AS AMENDED BY P.L.217-2007,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 201. (1) Finance charges on the first two hundred
4 fifty dollars (\$250) of a small loan are limited to fifteen percent (15%)
5 of the principal.
6 (2) Finance charges on the amount of a small loan greater than two
7 hundred fifty dollars (\$250) and less than or equal to four hundred
8 dollars (\$400) are limited to thirteen percent (13%) of the amount **of**
9 **the principal** over two hundred fifty dollars (\$250) and less than or
10 equal to four hundred dollars (\$400).
11 (3) Finance charges on the amount of the small loan greater than
12 four hundred dollars (\$400) and less than or equal to five hundred fifty
13 dollars (\$550) are limited to ten percent (10%) of the amount **of the**
14 **principal** over four hundred dollars (\$400) and less than or equal to
15 five hundred fifty dollars (\$550).
16 (4) The amount of five hundred fifty dollars (\$550) in subsection (3)
17 is subject to change under the provisions on adjustment of dollar

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amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

SECTION 2. IC 24-4.5-7-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 301. (1) For purposes of this section, the lender shall disclose to the borrower to whom credit is extended with respect to a small loan the information required by the Federal Consumer Credit Protection Act.

(2) In addition to the requirements of subsection (1), the lender must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

"WARNING: A small loan is not intended to meet long term financial needs. A small loan should be used only to meet short term cash needs. The cost of your small loan may be higher than loans offered by other lending institutions. Small loans are regulated by the State of Indiana Department of Financial Institutions.

A borrower may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a borrower must inform the lender that the borrower wants to rescind the small loan, and the borrower must return the cash amount of the principal of the small loan to the lender."

(3) The statement required in subsection (2) must be in:

- (a) 14 point bold face type in the loan documents; and
- (b) not less than one (1) inch bold print in the lending area of the business location.

(4) When a borrower enters into a small loan, the lender shall provide the borrower with a pamphlet approved **or produced** by the department that describes:

- (a) the availability of debt management and credit counseling services; ~~and~~
- (b) the borrower's rights and responsibilities in the transaction; **and**
- (c) **in the case of a pamphlet provided under this subsection after December 31, 2009, other loans and financial products that may be available to the borrower, such as:**

- (i) **credit cards and seller credit cards (as defined in IC 24-4.5-1-301(19));**
- (ii) **lines of credit; and**
- (iii) **other alternatives to a small loan that may be available**

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to the borrower at a lower cost than a small loan.

(5) The department shall adopt rules under IC 4-22-2 to do the following:

(a) Establish minimum standards for the content and design of a pamphlet described in subsection (4) that is:

(i) produced by a lender; and

(ii) submitted to the department for approval.

(b) Prepare a sample pamphlet that may be adopted or used by a lender, instead of a pamphlet produced by the lender under subdivision (a), to comply with subsection (4). Rules adopted under this subdivision may:

(i) allow the department to produce, or contract for the production of, multiple quantities of the pamphlet prepared by the department under this subdivision for distribution to lenders for use in complying with subsection (4); and

(ii) require a lender that chooses to use the pamphlet prepared by the department under this subdivision to reimburse the department for the department's costs in reproducing the pamphlets used by the lender.

(6) A pamphlet provided to a borrower under subsection (4) after December 31, 2009, must:

(1) meet the minimum standards set forth in the rules adopted by the department under subsection 5(a); or

(2) conform to the sample pamphlet prepared by the department in the rules adopted by the department under subsection 5(b).

SECTION 3. IC 28-8-5-18, AS AMENDED BY P.L.90-2008, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) A licensee shall keep its books, accounts, and records satisfactory to the department for each transaction for at least three (3) years from the transaction date.

(b) A licensee shall keep its books, accounts, and records separate from those of any other type of business and in a manner that reflects the order of the licensee's transactions.

(c) A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.

(d) Not later than March 1 of each year, beginning in 2010, a licensee shall submit an annual report to the department, on a form prescribed by the department, that includes the following information concerning the check cashing transactions conducted

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by the licensee during the previous calendar year, expressed as a total for all of the licensee's locations in Indiana and broken down by location for each of the licensee's locations in Indiana:

(1) The total number of check cashing transactions conducted by the licensee.

(2) The total check cashing fees:

(A) imposed by the licensee; and

(B) collected by the licensee;

in connection with the licensee's check cashing transactions.

(3) The average face amount of the checks involved in the licensee's check cashing transactions.

(4) The average check cashing fee imposed by the licensee in connection with the licensee's check cashing transactions.

(5) The number of different customers involved in the licensee's check cashing transactions.

(6) Any other information concerning the licensee's check cashing transactions that the department determines is relevant to the department's duties in administering and enforcing this chapter.

A licensee shall not identify any individual customer in a report required under this subsection, but shall report the required information in the aggregate. The department shall treat a report, or any information contained in a report, submitted under this subsection as confidential and shall exercise all necessary caution to avoid disclosure of the information received, except as otherwise permitted or required by law.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of financial institutions established by IC 28-11-1-1.

(b) As used in this SECTION, "lender" has the meaning set forth in IC 24-4.5-7-111.

(c) Notwithstanding IC 24-4.5-7-301(5), as added by this act, not later than September 1, 2009, the department shall adopt emergency rules under IC 4-22-2-37.1 to:

(1) establish minimum standards for the content and design of a pamphlet described in IC 24-4.5-7-301(4), as amended by this act, that is:

(A) produced by a lender; and

(B) submitted to the department for approval; and

(2) produce a sample pamphlet that may be adopted or used by a lender to comply with IC 24-4.5-7-301(4), as amended by this act;

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1 as required by IC 24-4.5-7-301(5), as added by this act, on an
2 emergency basis.

3 (d) An emergency rule adopted by the department under
4 subsection (c) expires on the earlier of:

5 (1) the date the rule is adopted by the department under
6 IC 4-22-2-24 through IC 4-22-2-36; or

7 (2) January 1, 2011.

8 (e) This SECTION expires January 1, 2011.

9 SECTION 5. An emergency is declared for this act.

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